



Paper No. 14

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**OCT 2 2 2002**

**OFFICE OF PETITIONS**

In re Application of  
HIROYUKI INOUE  
Application No. 09/008,497  
Filed: January 16, 1998  
Title: SEMICONDUCTOR DEVICE AND  
METHOD FOR MANUFACTURING THE SAME

DECISION ON PETITION

This is a decision on the petition filed on September 26, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The above-identified application was abandoned for failure to timely file a proper response to the final Office action mailed June 9, 2000. This action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 10, 2000. A Notice of Abandonment was mailed on January 25, 2001.

With the instant petition, petitioner filed a Notice of Appeal (and fee) in reply to the final Office action, paid the petition fee and provided a statement of unintentional delay by an assignee.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the reply required to the outstanding Office action or notice, unless previously filed;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (3) above.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." The statement of unintentional delay must be made by a party or parties who had the right or authority to reply to avoid abandonment. See MPEP 711.03(c). Furthermore, the statement under 1.137(b)(3) must be made by a registered practitioner or other party in interest having firsthand knowledge of the facts and circumstances surrounding the delay. If such statement is made by a registered practitioner not having firsthand knowledge of the facts and circumstances surrounding the delay, the statement must be based upon a reasonable investigation of the facts and circumstances surrounding the abandonment of the application consistent with the 37 CFR 10.18, and such statement by any person must be consistent with the duty of candor and good faith and the duty to disclose material information to the Office as required under 37 CFR 1.56.

The instant petition includes such a statement. However, this statement is made by assignee United Microelectronics Corporation. This assignee acknowledges that the assignment was not executed until January 29, 2001, and thus, this assignee was not an assignee when the application became abandoned on September 10, 2000. Accordingly, Microelectronics Corporation cannot make a statement attesting to unintentional delay for the period from September 10, 2000 to January 29, 2001, a time when Microelectronics was not a party in interest and did not have the right or authority to reply to avoid abandonment.

A proper statement (or statements) of unintentional delay by a proper part(ies) is required.

The change of correspondence address filed September 26, 2002, is acknowledged and made of record.

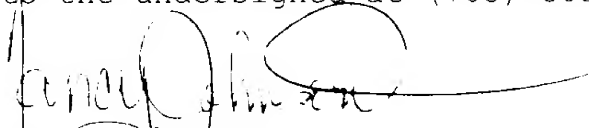
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
Box DAC  
Washington, DC 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
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Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson  
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for Patent Examination Policy